

Remarks

The status of the claims is as follows. Claims 1-14 were originally filed and were canceled in a Preliminary Amendment, in which Claims 15-42 were added. Claims 15-42 were subject to restriction. Claims 1-37, 39-42, 43, 44 and 46 were previously canceled and Claims 43-55 were previously added. Claim 50 was withdrawn from consideration in the present Office Action. Applicant reserves the right to file divisional applications to the separately patentable subject matter of the withdrawn and canceled claims. Thus, Claims 38, 45, 47-49 and 51-55 are currently pending and Claim 50 stands withdrawn. Claim 45 has been amended herein and claim 56 has been added.

The Amendment

Claim 45 was amended to incorporate the subject matter of claim 38 placing claim 45 in independent form.

Claim 55 is new and finds support in the specification, for example, claim 49.

Rejection under 35 U.S.C. §103

Claims 38 and 49 were rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, *et al.* (U.S. Patent No. 5,807,522) (Brown) in view of Eriksson (U.S. Patent No. 3,642,450).

The Office Action recognizes that Brown differs from the instant invention in failing to teach storing the microarray in a waterproof storage container. However, asserts the Office Action, Eriksson discloses a waterproof envelope for holding a test strip. The Office Action asserts that it would have been obvious to one of ordinary skill in the art to enclose the microarray of Brown in the waterproof envelope of Eriksson because the waterproof envelope of Eriksson provides the advantage of protecting the reagents on the microarray from contaminants.

Applicant submits that the skilled artisan would not be motivated to make the combination of teachings of the references as suggested in the Office Action. Brown implies that some humidity may be desirable (col. 9, lines 46-51). Consequently, one skilled in the art is taught by Brown that drying may not be necessary and that maintaining a dried condition may not be necessary. Thus, the skilled artisan would not be motivated to keep the device of Brown in a waterproof storage container.

Without acquiescing in the rejection of claim 49, claim 49 is dependent from claim 38 and, therefore, is patentable over Brown by virtue of its dependency.

Allowable Subject Matter

The Office Action indicated that claims 45, 47 and 48 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has amended claim 45 accordingly.

Allowed Claims

Claims 51-55 were allowed.

Conclusion

Claims 38 and 49 satisfy the requirements of 35 U.S.C. §103. Claim 45 has been rewritten in independent form and is, therefore, allowable as are those claims depending therefrom. Allowance of the above-identified patent application, it is submitted, is in order.

Respectfully submitted,



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